

Regulatory Commission of Alaska
701 West Eighth Avenue, Suite 300
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(907) 276-6222; TTY (907) 276-4533

request for temporary exemption from AS 42.05.221(a) for local telephone service in abeyance until the application for a certificate was received and reviewed.⁴

Adak Telephone filed an application on January 2, 2001. We granted Adak Telephone temporary exemption from AS 42.05.221(a) in accordance with AS 42.05.711(d) and allowed it to provide telecommunications service pending our evaluation of its application for a certificate.⁵ We determined that the application was incomplete and required it to provide additional information and correct the deficiencies in its application.⁶ On May 8, 2001, Adak Telephone requested a sixty-day extension of time to file the additional information for its application. We granted the request for the extension of time and required it to file the information by July 6, 2001.⁷ Adak Telephone failed to comply.

We required ARC to file an update of the status for each of the Adak utilities and to include a proposed timeline for completion of the application process by January 23, 2003.⁸ In its status update filed January 24, 2003, ARC stated that it had negotiated transfers of the electric, water, and wastewater utilities to the City of Adak and was still in the process of negotiating the transfer of Adak Telephone. We accepted the status report and required ARC to file a status update by June 30, 2003.⁹ The City of Adak filed applications for the electric, water and wastewater utilities on

⁴Order U-00-128(1)/U-00-129(1)/U-00-130(1)/U-00-137(1), dated September 30, 2000.

⁵See n. 1.

⁶Letter Order 100448, dated April 9, 2001.

⁷Order U-00-137(5), dated May 15, 2001.

⁸Order U-00-128(3)/U-00-129(3)/U-00-130(3)/U-00-137(6), dated December 23, 2002.

⁹Order U-00-128(4)/U-00-129(4)/U-00-130(4)/U-00-137(7), dated March 11, 2003.

1 June 20, 2003. On July 1, 2003, Adak Telephone requested a six-month extension of
2 time to file the report required by Order U-00-137(7). Adak Telephone stated that the
3 negotiation for the transfer of Adak Telephone to the City of Adak had failed and that
4 ARC was still operating and managing the utility.

5 On July 14, 2003, Adak Telephone requested that we transfer its
6 temporary operating authority to AEE. Adak Telephone stated that AEE has been
7 managing Adak Telephone for ARC for over three years and that ARC had given AEE a
8 lease for the system. On August 6, 2003, AEE filed an application for a certificate of
9 public convenience and necessity to provide local telecommunications service in
10 Adak.¹⁰

11 Discussion

12 We required ARC to provide us with an update of each of its utilities,
13 including a proposed timeline for completion of the application process. Adak
14 Telephone failed to comply timely and requested an extension of time to file its updated
15 report. Adak Telephone subsequently requested that its temporary exemption and
16 temporary operating authority be transferred to AEE. With that request, Adak
17 Telephone indicated that ARC had given a lease to AEE to operate the telephone utility
18 and that AEE was the only entity interested in operating the telephone utility. We
19 believe that this information satisfies the requirement for Adak Telephone to file an
20 update of the status of Adak Telephone, and we find Adak Telephone's request for an
21 extension of time to file its status report moot.

22
23
24 ¹⁰We opened Docket U-03-76 to consider AEE's application for a certificate.
25 Docket U-03-76 is entitled: *In the Matter of the Application Filed by Adak Eagle*
26 *Enterprise, for a Certificate of Public Convenience and Necessity to Provide Local*
Exchange Telecommunications.

1 Because Adak Telephone no longer plans to move forward with its
2 application and AEE has filed an application for a certificate to provide local telephone
3 service in Adak, we vacate the requirement for Adak Telephone to file a proposed
4 timeline for completion of its application process for a certificate.

5 Adak Telephone originally filed an application for certification and is the
6 entity to which we granted temporary operating authority for the provision of local
7 telephone service to Adak. It has requested that we approve transfer of its temporary
8 operating authority to AEE. Although AEE has filed an application to provide local
9 telephone service, we have not completed our review of AEE's application.

10 We grant Adak Telephone's request to transfer its temporary operating
11 authority to AEE.

12 **ORDER**

13 THE COMMISSION FURTHER ORDERS:

14 1. The request filed on July 1, 2003, by Adak Reuse Corporation d/b/a
15 Adak Telephone Utility for an extension of time is moot.

16 2. The requirement for Adak Reuse Corporation d/b/a Adak Telephone
17 Utility to file an updated report and proposed timeline for completion of the application
18 process for Adak Telephone Utility, as set out in Order U-00-137(7), dated
19 March 11, 2003, is vacated.
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1 3. The request filed on July 14, 2003, by Adak Reuse Corporation d/b/a
2 Adak Telephone Utility to transfer its temporary operating authority to Larry Mayes d/b/a
3 Adak Eagle Enterprises is granted.

4 DATED AND EFFECTIVE at Anchorage, Alaska, this 19th day of September, 2003.

5 BY DIRECTION OF THE COMMISSION
6 (Commissioners Kate Giard and G. Nanette Thompson,
7 not participating.)



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701 West Eighth Avenue, Suite 300
Anchorage, Alaska 99501
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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

Mark K. Johnson, Chair
Kate Giard
Dave Harbour
James S. Strandberg
G. Nanette Thompson

In the Matter of the Application by Adak
Telephone Utility for a New Certificate of Public
Convenience and Necessity

U-00-137

CERTIFICATION OF MAILING

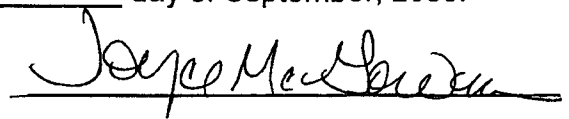
I, Joyce McGowan, certify as follows:

I am Records and Licensing Supervisor in the offices of the Regulatory
Commission of Alaska, 701 West Eighth Avenue, Suite 300, Anchorage, Alaska
99501. On September 19, 2003, I mailed copies of
Order No. 8, entitled:

**ORDER FINDING REQUEST FOR EXTENSION OF TIME MOOT,
VACATING FILING REQUIREMENT, AND GRANTING REQUEST FOR
TRANSFER OF TEMPORARY OPERATING AUTHORITY**
(Issued September 19, 2003)

in the proceeding identified above to the persons indicated on the attached service list.

DATED at Anchorage, Alaska, this 19th day of September, 2003.



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SERVICE LIST
U00137.8

Page: 1 of 1
Date: 9/19/2003

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EMAIL LIST
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Page: 1 of 1
Date: 9/19/2003

This document was also emailed to:
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REDACTED - FOR PUBLIC INSPECTION.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
ADAK EAGLE ENTERPRISES, LLC)
d/b/a ADAK TELEPHONE UTILITY)
)
Petition for Waiver of the Commission's)
Rules to Obtain Accelerated USF)
Support and to Participate in NECA)
Pools and Tariffs)
)

CC Docket No. 96-45

PETITION FOR WAIVER OF THE COMMISSION'S RULES
TO OBTAIN ACCELERATED USF SUPPORT
AND TO PARTICIPATE IN NECA POOLS AND TARIFFS

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Filed: February 9, 2005

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SUMMARY

Adak Eagle Enterprises, LLC d/b/a Adak Telephone Utility ("AEE") is a new local exchange carrier that has initiated state certificated local telephone service within a remote, high-cost rural area on Adak Island, Alaska. This area has never been part of any study area or served by any designated eligible telecommunications carrier ("ETC").

Under the Commission's rules, calculation of Universal Service Fund ("USF") high-cost loop support is based on historical cost information. AEE's historical cost information is inadequate for high-cost loop support because it reflects only the initial, temporary operation of interim, largely substandard, outdated telephone plant that was installed over the course of several decades by the military for base use on Adak Island. AEE undertook that initial, temporary operation to ensure continuity of a minimal level of telephone service on Adak Island. However, virtually all of the existing plant will be replaced with new facilities in 2005, and AEE will incur substantial additional administrative and operations costs in order to provide reliable, regulated, utility-grade service to current and future customers.

Accordingly, AEE's historical cost information related to initial, temporary operation of existing facilities does not reflect the significant high costs that AEE will soon incur for construction and permanent operation of the new telephone system. Under these circumstances, strict application of the Commission's rules would preclude AEE from receiving USF high-cost loop support related to these substantial new costs until 2007.

To better serve the public policy goals set forth in the Telecommunications Act of 1996¹ and the Commission's rules, and to more economically serve its rural customers, AEE

¹ Public Law No. 104-104, 110 Stat. 56 (1996) (the "Act").

1 seeks the waivers requested herein to allow AEE to immediately begin receiving high-cost USF
2 support based the higher current and projected costs it will incur to provide adequate telephone
3 service. AEE also seeks additional waivers to allow AEE to become a member of the National
4 Exchange Carrier Association ("NECA") and to immediately participate in NECA pools and
5 tariffs.
6

7 Specifically, AEE requests the following waivers of the Commission's rules:

8 (1) If the Commission determines it is necessary, a waiver of the definition of
9 "study area" contained in the Appendix-Glossary of Part 36 of the Commission's rules;
10

11 (2) Waiver of sections 36.611 and 36.612 of the Commission's historical cost
12 rules to allow AEE immediate access to USF high-cost loop support, effective January 1, 2005,
13 based on AEE's current data for an interim period;

14 (3) Waiver of the October 1, 2004, and January 1, 2005, state USF
15 certification deadlines set forth in section 54.314(d) of the Commission's rules;

16 (4) Waiver of sections 54.301(b) and 54.903(a)(3) of the Commission's rules
17 to allow AEE to be eligible to receive local switching support ("LSS") and interstate common
18 line support ("ICLS") for the period beginning January 1, 2005; and
19

20 (5) Waivers of the definition of "telephone company" in section 69.2(hh) and
21 of the annual election filing deadline in section 69.3(e)(6) to allow AEE to become a member of
22 NECA and to immediately participate in NECA pools and tariffs.

23 Granting these waivers will ensure administration of the USF in a manner
24 consistent with the Commission's goal of assisting local exchange carriers in serving high-cost
25 rural areas and maintaining affordable local service rates.
26

1 In the event any additional waivers are necessary to expedite AEE's receipt of
2 USF support and participation in NECA pools and tariffs, AEE requests that such waivers be
3 considered and granted on the Commission's own motion. If some of the waivers requested
4 herein will require substantially more time for review than others, AEE respectfully requests that
5 those waiver requests be severed and those requiring less time be ruled upon while review of the
6 other requests is pending.
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
ADAK EAGLE ENTERPRISES, LLC)
d/b/a ADAK TELEPHONE UTILITY)
)
Petition for Waiver of the Commission's)
Rules to Obtain Accelerated USF)
Support and to Participate in NECA)
Pools and Tariffs)
_____)

CC Docket No. 96-45

**PETITION FOR WAIVER OF THE COMMISSION'S RULES
TO OBTAIN ACCELERATED USE SUPPORT
AND TO PARTICIPATE IN NECA POOLS AND TARIFFS**

I. Introduction

Adak Eagle Enterprises, LLC d/b/a Adak Telephone Utility ("AEE"), by its attorneys, pursuant to section 1.3 of the Commission's rules,² requests a waiver of the Commission's rules as set forth herein to allow AEE to immediately begin receiving high-cost Universal Service Fund ("USF") support and participating in National Exchange Carrier Association, Inc. ("NECA") pools and tariffs. Specifically, AEE requests the following:

- (1) If the Commission determines it is necessary, a waiver of the definition of "study area" contained in the Appendix-Glossary of Part 36 of the Commission's rules;
- (2) Waiver of sections 36.611 and 36.612 of the Commission's historical cost rules to allow AEE immediate access to USF high-cost loop support, effective January 1, 2005, based on AEE's current data for an interim period;

² 47 C.F.R. § 1.3.

(3) Waiver of the October 1, 2004, and January 1, 2005, state USF certification deadlines set forth in section 54.314(d) of the Commission's rules;

(4) Waiver of sections 54.301(b) and 54.903(a)(3) of the Commission's rules to allow AEE to be eligible to receive local switching support ("LSS") and interstate common line support ("ICLS") for the period beginning January 1, 2005; and

(5) Waivers of the definition of "telephone company" in section 69.2(hh) and of the annual election filing deadline in section 69.3(e)(6) to allow AEE to become a member of NECA and to immediately participate in NECA pools and tariffs.

In the event any additional waivers are necessary to expedite AEE's receipt of USF support and participation in NECA pools and tariffs, AEE requests that such waivers be considered and granted on the Commission's own motion. If some of the waivers requested herein will require substantially more time for review than others, AEE respectfully requests that those waiver requests be severed and those requiring less time be ruled upon while review of the other requests is pending. For example, to the extent the waivers requested in (5) above can be reviewed and decided before the other waiver requests, AEE requests that they be decided separately to expedite AEE's eligibility to participate in NECA pools and tariffs while the other waiver requests are pending.

II. Background

On October 8, 2004, AEE was issued Certificate of Public Convenience and Necessity No. 702 by the Regulatory Commission of Alaska ("RCA") to operate as a public

utility for the provision of local exchange telecommunications service in Alaska.³ On November 22, 2004, AEE filed a request with the RCA for designation as an eligible telecommunications carrier ("ETC") pursuant to section 214(e)(2) of the Act and section 54.201 of the Commission's rules. AEE expects the RCA to grant AEE ETC designation in the near future.

AEE is authorized to provide service within its certificated service area located on Adak Island, Alaska. Adak Island is an isolated island located approximately 1,200 miles southwest of Anchorage, Alaska, in the Aleutian Chain.⁴ As shown on the tariff sheets and maps included in Attachment C, AEE's certificated service area covers approximately 61,000 acres and consists of that portion of Adak Island that was formerly a United States Naval Complex (roughly, the northern one-half of the island). The remainder of Adak Island is part of the Alaska Maritime National Wildlife Refuge. Outside of the former Adak Naval Complex, there is no independent community on Adak Island.

Adak Island was actively used by the United States military beginning in the 1940s and throughout the Cold War. As a result of the Defense Base Closure and Realignment Act of 1990 and the military drawdown and closure of Naval Security Group Activity, military operations ended on Adak Island on March 31, 1997, and the Navy completed its withdrawal effective September 30, 2000.

³ See Attachment A, Certificate of Public Convenience and Necessity issued by the RCA. As stated on the certificate, the RCA granted AEE a "temporary" certificate. The RCA has indicated that it is primarily waiting for AEE to provide evidence of a loan commitment from the United States Department of Agriculture, Rural Utilities Service ("RUS") before a permanent certificate is issued to AEE. See Attachment B, RCA Order No. U-03-76(3) (Jan. 19, 2005). AEE has applied for the RUS loan and expects to receive the required loan commitment within 60 days.

⁴ See Attachment C.

During its use of Adak Island, the military installed and operated its own utility facilities for the Adak Naval Complex, including a communications system consisting of an analog PBX switch, copper cable facilities, and limited amounts of fiber optic cable. Upon the Navy's withdrawal, operational responsibility for the Navy's electric, water, wastewater, and communication facilities was transferred to the Adak Reuse Corporation ("ARC"), a public local redevelopment authority empowered to facilitate reuse and redevelopment of the Adak Naval Complex. On November 17, 2000, the State of Alaska granted ARC's petition for Adak to become a Second Class City under Alaska law. On February 28, 2001, the RCA granted ARC d/b/a Adak Telephone a temporary exemption from Alaska certification requirements for public utilities. ARC conveyed the electric, water, and wastewater systems to the City of Adak, but the City of Adak declined to accept the communications system and provide local exchange telephone service to the public. AEE was the only entity willing to undertake the provision of public telephone service on Adak Island. On September 19, 2003, the RCA transferred ARC d/b/a Adak Telephone's temporary operating authority to AEE.

Effective March 17, 2004, ownership of most of the land and improvements of the Adak Naval Complex (including the existing communications facilities) were conveyed from the United States Navy and United States Department of Interior to The Aleut Corporation ("TAC"). TAC is an Alaska Native regional corporation established under the Alaska Native Claims Settlement Act.⁵ TAC represents the indigenous people of the Aleutian Islands, including Adak Island. TAC is also represented through membership positions in ARC.

⁵ 43 U.S.C. §1606.

AEE has obtained a leasehold interest in the existing communications facilities previously used for the Adak Navel Complex as an interim means to provide at least some level of local telephone service to the public on Adak Island. AEE will own all future additions and improvements constructed to provide certificated local exchange telecommunications service. On October 8, 2004, AEE was granted a temporary Certificate of Public Convenience and Necessity by the RCA for the provision of local exchange telecommunications service within its service area, and AEE has initiated service to customers under rates approved by the RCA.⁶ Because the military provided its own communications services on Adak Island over the decades that the Adak Navel Complex was in use, AEE's certificated service area has never been included within any USF study area and has never been served by a designated ETC. AEE connects to the public switched network through an AT&T Alascom interexchange service satellite earth station located on Adak Island.

There are currently 62 full-time residents on Adak Island plus a large number of contractors providing various services relating to ordinance disposal, environmental remediation, asset evaluation, wildlife preservation, and other services. Currently, the number of access lines on Adak varies from approximately 75 for full-time residents to approximately 160 during the summer months. There is a potential for future economic expansion and growth in local telephone service subscribership from marine refueling activity (Adak has over 20 million gallons of petroleum storage), commercial fishing and fish processing, possible construction of a missile defense site, and other activities. However, all of this potential economic activity requires reliable local telecommunications services provided at reasonable rates.

⁶ See Attachment D, AEE Rate Schedule 8.01, Tariff Sheet No. 97. This tariff sheet was approved by the RCA effective January 19, 2005.

The existing telephone plant was installed by the military over the course of several decades. Much of this plant is degraded, outdated, and inadequate for long term, reliable provision of regulated local exchange service to customers. AEE has been using this plant, along with a new, interim digital switch, as a short term, temporary measure to ensure continuity of at least some level of service to the inhabitants of Adak Island. However, to provide adequate, reliable, regulated telephone service in this growing rural area, AEE must in the coming months replace virtually all of the existing plant and undertake expanded administrative, operations, and maintenance responsibilities. Compared to its relatively limited, temporary operating responsibilities in the past, these responsibilities require AEE now, for the first time, to undertake substantial construction and installation projects and incur significantly higher costs associated with obtaining a skilled workforce, engineering services, and accounting and regulatory resources.

To meet these new demands, AEE has applied for a \$6.2 million loan from the RUS to cover the costs necessary for the provision of adequate and reliable local exchange service, including: (1) replacement of the existing PBX, power plant, and ancillary equipment with fully compliant switches and equipment; (2) establishment of a fiber to the premise ("FTTP") outside plant distribution system; (3) deployment of paging services on the island; (4) central office improvements; and (5) engineering and other costs. Although no firm completion date has been guaranteed, AEE expects that the RUS loan will be approved within 60 days.

III. Good Cause Exists for the Requested Waivers

As a general matter, Commission rules may be waived for good cause.⁷ Such a waiver is appropriate where special circumstances warrant a departure from the general rule and such departure will serve the public interest.⁸ In addition, the waiver should serve the policy goals and principles which underlie the waived rule.⁹ The Commission “may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.”¹⁰ Each of the waivers requested herein satisfies these standards.

A. Study Area Waiver

AEE believes that it is not required to seek a waiver of the definition of “study area contained in the Appendix-Glossary of Part 36 of the Commission’s rules for the purpose of establishing a study area serving a heretofore unserved area.”¹¹ In *Skyline I*, the Commission clarified that “a study area waiver request must be filed with the Commission where a company

⁷ 47 C.F.R. § 1.3.

⁸ *City of Angels Broadcasting, Inc. v. FCC*, 745 F.2d 656, 662-63 (D.C. Cir. 1984).

⁹ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972) (“*WAIT Radio*”).

¹⁰ *M&L Enterprises, Inc., d/b/a Skyline Telephone Company, Petition for Waiver of Sections 36.611, 36.612, and 69.2(hh) of the Commission’s Rules*, Order, 19 FCC Rcd 6761, para. 7 (2004) (“*Skyline I*”) (citing *WAIT Radio*, 418 F.2d at 1159; *Northeast Cellular Telephone Company v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990)).

¹¹ See *Request for Clarification Filed by the National Exchange Carrier Association, Inc., and Petitions for Waivers Filed by Alaska Telephone Company, Ducor Telephone Company, and Kingsgate Telephone, Inc., Concerning the Definition of “Study Area” Contained in the Part 36 Appendix-Glossary of the Commission’s Rules*, Memorandum Opinion and Order, AAD 95-175, AAD 96-29, AAD 96-5, 11 FCC Rcd 8156, 8160 (Com. Car. Bur. 1996) (“*Study Area Waiver Exceptions Order*”).

is seeking to create a new study area from within one or more existing study areas.”¹² In contrast to the facts in *Skyline I*, AEE’s proposed study area (its certificated service area) has never been part of any existing study area. Moreover, this area has never been served by any certificated local exchange carrier or designated ETC. Accordingly, AEE believes it is not required to seek a study area waiver.

If, however, the Commission determines that such a waiver is required, AEE hereby requests that the Commission grant that waiver. A study area waiver is appropriate if (1) the change in study area boundaries does not adversely affect the USF; (2) no state commission having regulatory authority opposes the change; and (3) the public interest will be served.¹³ Applying these criteria, the Commission, on its own motion, granted a study area waiver to the new local exchange carrier in *Skyline I*.

In the instant case, AEE’s circumstances satisfy each of these three criteria. First, the waiver will not adversely affect the USF because it will not result in an annual aggregate shift in high-cost support in an amount equal to or greater than one percent of the total high-cost fund for the funding year.¹⁴ Based on the Universal Service Administrative Company’s (“USAC’s”) first quarter 2005 projections, the total annual high-cost support for the nation will be approximately \$3.907 billion (\$976,904,832 x 4).¹⁵ One percent of that amount is in excess of

¹² *Skyline I*, para. 13.

¹³ *Id.* at paras. 5, 13.

¹⁴ *See id.* at para. 15 and n.37.

¹⁵ USAC Quarterly Administrative Filing 2004, First Quarter 2005 Appendix HC01, available at www.universalservice.org/overview/filings.

\$39 million. AEE's projected annual high-cost support for 2005 is \$499,865, an amount that is substantially less than one percent of the total high-cost support fund.

Second, the RCA has not opposed AEE's certificated service area constituting a study area for high-cost support purposes. AEE is in the process of requesting a letter from the RCA expressly stating non-opposition to this requested waiver.

Third, the public interest is served by a waiver of the study area freeze to recognize AEE's certificated service area as a study area for regulatory purposes. AEE is currently providing local telephone service for 75 to 160 access lines that otherwise would have no service within an extremely isolated, rural, island environment. In addition, AEE is in the process of obtaining \$6.2 million of debt financing to make needed plant investments and to improve and expand local telephone service to rural customers on Adak Island. Like the factors that the Commission found persuasive in *Skyline I*, these factors demonstrate AEE's commitment to provide reliable telecommunications service in the Adak Island service area. Therefore, waiver of the study area boundary freeze in the instant case will serve the public interest.

B. Waiver of the Sections 36.611 and 36.612

AEE is a "rural telephone company" under section 153(37) of the Act¹⁶ and will be providing telephone service within a high-cost rural study area. Accordingly, it will be eligible to receive USF cost recovery assistance. Under the Commission's rules, calculation of high-cost loop support is based on historical cost information. However, as a new company proposing to serve an area that has not previously been served by any certificated carrier or ETC,

¹⁶ 47 U.S.C. § 153(37).

AEE does not have historical cost information reflecting the high costs that AEE will soon incur to provide adequate and reliable service on Adak Island.

AEE's historical cost information is inadequate for high-cost loop support because it reflects only the initial, limited, temporary operation of degraded, outdated telephone facilities that were installed by the military over several decades for base use. AEE's historical costs do not reflect the costs associated with the equipment, personnel, and operations necessary for the provision of reliable, regulated telephone service. Virtually all of the existing plant will be replaced with new facilities in 2005 and AEE will incur additional labor, administrative, and regulatory costs in order to provide reliable, regulated, utility-grade service to current and future customers. Accordingly, AEE's historical cost information is inadequate for calculating the high-cost loop support that AEE will need to provide reliable, affordable local telephone service in its rural study area.

Under these circumstances, strict application of sections 36.611 and 36.612 of the Commission's rules would preclude AEE from receiving high-cost loop support related to AEE's new telephone system and expanded administration and operations until 2007¹⁷ (although the quarterly update provision of section 36.612 could reduce this period to some extent).¹⁸ During this period, AEE would be compelled to continue to look to its rural local exchange customers for cost recovery of amounts that otherwise should be recovered through the USF in a manner consistent with established Commission policy and practice.

¹⁷ The data submission and filing requirements of Part 36 of the Commission's rules operate to postpone the eligibility of a newly established local exchange carrier for receipt of USF support until its third year of operation. *See, e.g., Skyline I*, para. 19.

¹⁸ *Skyline I*, para. 20.

The primary goal of the USF program is to promote the nationwide availability of reasonably priced telephone services by providing "direct assistance to the areas where it is most needed to ensure that telephone rates remain affordable for the average subscriber."¹⁹ In this instance, adherence to the rules will frustrate, rather than further, this goal by denying timely cost recovery from the USF to a new company that has only recently initiated certificated local telephone service to a rural area and is in the process of incurring significant new costs necessary to provide adequate and reliable telephone service to rural customers. To remedy this situation, AEE seeks a directive to USAC to calculate and remit USF support to AEE (upon AEE obtaining RCA designation as an ETC) with such calculation to be based temporarily on current and projected, rather than historical, costs. AEE seeks this treatment until such time as AEE's 2005 costs become historical costs upon which USF recovery can be calculated under the normal procedures set forth in sections 36.611 and 36.612 of the Commission's rules.

USF is intended to address the AEE situation. At present, AEE's basic local exchange rates are already extremely high: \$100 per month for residential customers and \$130 per month for business customers.²⁰ Once AEE begins receiving USF support and participation in the NECA pools and tariffs, the RCA will require AEE to reduce its local service rates to reflect these sources of revenue. AEE emphasizes that there is an urgent need to expedite this process, as the current local service rates are extremely high. Again, under a strict application of the Commission's historical cost rules, AEE's customers would have to wait at least two years for the much needed local service rate relief that will result from high-cost loop support related

¹⁹ *MTS and WATS Market Structure, Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, Recommended Decision and Order, CC Docket Nos. 78-72, 80-286, para. 58 (rel. Nov. 23, 1984).

²⁰ See Attachment C.

to its current and projected equipment and operations costs. In the mean time, AEE's high local service rates will also continue to discourage growth in subscribership to local telephone service and jeopardize the future affordability of telephone service in AEE's rural service area. These results are directly contrary to the fundamental goal of the USF program:

The Commission established the USF program to promote the nationwide availability of telephone service at reasonable rates. Toward this end, USF support permits high-cost LECs to reduce local rates by recovering additional expenses from the interstate services they provide.²¹

To better serve this public policy goal²² and to more economically serve its subscribers, AEE seeks a waiver of the historical cost requirements of sections 36.611 and 36.612 of the Commission's rules. Granting this waiver will permit AEE to receive USF payments promptly for its initial operations based on current and projected, rather than historical, costs and ensure administration of the USF in a manner consistent with the Commission's goal of assisting local exchange carriers serving high-cost areas in maintaining affordable local service rates. Granting this waiver will also serve the public interest by allowing AEE to provide reliable and economical service to an area that has previously not been included in any USF study area or served by an ETC.

²¹ *Border to Border Communications, Inc., Petition for Waiver of Sections 36.611 and 36.612 of the Commission's Rules*, Memorandum Opinion and Order, AAD 94-61, 10 FCC Rcd. 5055, 5055 (Com. Car. Bur. 1995) ("*Border to Border*") (citation omitted).

²² The Act codifies support mechanisms to preserve and advance universal service. Congress has directed the Commission to establish universal service policies which embody, *inter alia*, the principle that "[c]onsumers in all regions of the Nation, including low-income consumers and those in rural, insular and high cost areas, should have access to telecommunications and information services . . . at rates that are reasonably comparable to rates charged for similar services in urban areas." 47 U.S.C. § 254(b)(3).